

REMARKS

Claims 10, 11, 16, 25, 29 and 31-37 have been canceled. New claim 38, dependent on claim 1, has been added. Claim 12 has been amended to depend from new claim 38. Claim 14 has been amended to include the limitations of canceled claim 16 and the additional limitation that the pusher in its extended position is disposed between the cross members of the clamps. Method claim 30 has been rewritten in independent form to include limitations from canceled claims 25 and 29 and the additional limitation that portions of the film material pass between the plow and the side walls of the inserted slider. Claim 26 has been amended to depend from independent claim 30.

In ¶ 2 of the office action, claims 1, 3, 8, 14-18, 22, 25-34, 36 and 37 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,701,191 to Laguerre. As applied to canceled claims 31-34, 36 and 37, this ground for rejection is moot. As applied to claims 1, 3, 8, 14-18, 22, and 25-30, the Applicants traverse this ground for rejection for the following reasons.

First, independent claim 1 recites that the splitter plate is disposed between the second and third sections of the zipper strips, which sections are in turn respectively between

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the first and second guides (second section) and between the first and second grippers (third section). In contrast, the separator member 8 of Laguerre is disposed between the grippers 9 and 9a, but is not disposed between the components, namely, the wheels 7 and 7a of Laguerre, on which the Examiner has read the limitations "first and second guides" in Applicants' claim 1.

It is well settled that in order for anticipation to be present, the cited prior art reference must disclose each and every limitation of the rejected claim. Since independent claim 1 recites, in substance, that the splitter plate is disposed between the first and second grippers as well as the first and second guides, and since the separator member of Laguerre is disposed between the grippers only, there can be no anticipation by Laguerre of claim 1.

Second, claim 1 has been amended to recite that the grippers and the pusher are each "linearly movable without translation" between retracted and extended positions. In contrast, the grippers 9 and 9a pivot on hinges 32 and 32a respectively, while the grippers 10 and 10a pivot on hinges 33 and 33a respectively. Since claim 1 recite that the grippers move without rotation, whereas the grippers of Laguerre

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rotate, a further claim limitation is lacking from Laguerre, providing an independent ground for arguing that claim 1 is not anticipated.

Since independent claim 1 is not anticipated by Laguerre, neither claim 3 nor claim 8, dependent on claim 1, is anticipated.

Independent claim 14 has been amended to recite two limitations not found in Laguerre: (1) that the pusher and clamps are each "linearly movable without rotation", as previously discussed with reference to claim 1; and (2) that each clamp comprises respective sets of arms connected by a respective cross member, and that the pusher in its extended position is disposed between the clamp cross members in a transverse direction. In contrast, as best seen in Figure 1 of Laguerre, no portion of any of gripper 9, 9a and 10, 10a is disposed in the spaces lying on opposing sides of the pusher, i.e., in a transverse direction. Consequently, the Applicants respectfully submit that neither independent claim 14 nor claims 15-17 dependent thereon are anticipated by Laguerre.

As applied to amended method claim 30, the anticipation rejection fails because Laguerre does not disclose the manufacture of bags having a slider-operated

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string zipper, i.e., a zipper having flangeless zipper strips. Figures 3-5 of the Laguerre '191 patent show a zipper that is integrally formed with a folded sheet. The same zipper is seen more clearly in Figure 2 of the Laguerre '192 patent. The Laguerre '191 and '192 patents are continuations-in-part of the same parent application. As an alternative to an integral zipper and sheet, Laguerre '191 states that the "closure elements can form part of strips fixed to the edges of the folded sheet" (col. 2, lines 29-31). There is no disclosure or suggestion that such zipper strips are flangeless. Accordingly, the Applicants respectively submit that claim 30 and claims 26-28 dependent thereon are not anticipated by Laguerre.

In view of the foregoing, withdrawal of the anticipation rejection based on Laguerre is requested.

In ¶ 4 of the office action, dependent claims 2, 4-7, 9-12, 19-21, 23, 24 and 35 were rejected under 35 U.S.C. 103(a) as being unpatentable over Laguerre. As applied to canceled claim 35, this ground for rejection is moot. As applied to claims 2, 4-7, 9-12, 19-21, 23 and 24, the Applicants traverse this ground for rejection at least for the same reasons, set forth above, that independent claims 1 and

14 are not anticipated by Laguerre.

In addition, the Applicants specifically traverse the Examiner's assertion that it would be obvious to have substituted cylinders for the cams of Laguerre "since ... this is substitution of equivalents for the same purpose." Applicants respectfully note that a cylinder is not a functional equivalent of a cam. The cylinders used in Applicants' invention act in both directions to both extend and retract the pusher and the gripper. In contrast, the cam of Laguerre rotates in one direction only, meaning that the cam causes the pusher and grippers to extend, but cannot cause them to retract. For the latter purpose, Laguerre provided return springs 29 (see Figure 3) and 30 (see Figure 5). Moreover, the small angles through which the hinged grippers of Laguerre rotate would seem to require a cylinder with an extremely short stroke, which intuitively seems problematic. In any event, the entire support structure of the Laguerre machine would need to be redesigned. In view of the foregoing, the Applicant respectfully submits that it would not have been obvious to substitute cylinders for the cam of Laguerre.

With regard to new dependent claim 38, the Applicants respectfully submit that it would not be obvious to

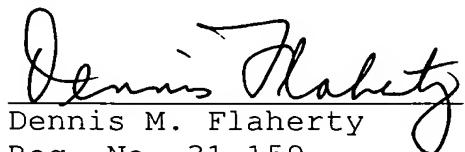
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substitute three translation mechanisms actuated by a programmed controller for the rotating cam of Laguerre.

In ¶ 5 of the office action, dependent claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Laguerre in view of GB 2085519 to Hughues. Hughues is cited solely for the teaching of a pusher having an angled interior side wall. The Applicants traverse this ground for rejection at least for the same reasons, set forth above, that independent claim 1 (on which claim 13 depends) is not anticipated by Laguerre.

In view of the foregoing, the Applicants submit that this application is now in condition for allowance. Reconsideration of the application and allowance of claims 1-9, 12-15, 17-24, 26-28, 30 and 38 are hereby requested.

Respectfully submitted,

  
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Date



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CERTIFICATE OF MAILING

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

December 13, 2004

Date

Dennis M. Flaherty

A handwritten signature in black ink that reads "Dennis Flaherty". Below the signature, the name "Dennis M. Flaherty" is printed in a smaller, more formal font.

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IN THE DRAWINGS:

The Applicants request that original Figure 6 be replaced by the Replacement Sheet submitted herewith. Two superfluous short lines have been deleted at the interior corners where the right-hand edge of the pusher overlaps the zipper.